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PATENT & TRADEMARK OFFICE

Docket No. 56290-1541 Patent
Customer No. 20987

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of	: **ATTENTION APPLICATIONS BRANCH**
Mario A. VILLENA, et al.	:
Application No. 10/536,693	: International Application No.: PCT/US04/28206
Filed: May 27, 2005	: International Application Filing Date: August 31, 2004

For: COMPUTERIZED AGENT AND SYSTEMS FOR AUTOMATIC SEARCHING OF PROPERTIES HAVING FAVORABLE ATTRIBUTES

PETITION TO MAKE SPECIAL UNDER 37 C.F.R. § 1.102(d)

Mail Stop – Petitions
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Applicants petition the Commissioner of Patents and Trademarks under the provisions of 37 C.F.R. § 1.102(d) with the appropriate fee set forth under 37 C.F.R. § 1.17(h). Applicants believe that all claims are directed to a single invention, but agree to make an election, without traverse, if the Office determines that all claims are not directed to a single invention.

Applicants also states that a pre-examination search was made by the United States Patent and Trademark Office (USPTO), and that the pre-examination search was directed to the invention as claimed in the application for which special status is now requested. The classification of the subject matter include G06F 17/60 (IPC(8)) and 705/1,10,400 (US). The technical fields searched included classes/subclasses 705/1 (US). A copy of the search report, as well as a copy of each reference deemed most closely related to the subject matter encompassed by the claims, is attached.

A detailed discussion of each of the references how the claimed subject matter is patentable over the references follows:

MOST RELEVANT REFERENCES

United States Publication No. 2001/0039506 to Robbins ("Robbins") was cited against claims 27-31 for which there is no new corresponding claim as all new independent claims are directed to a different invention, e.g., the invention of cancelled claim 1 and new claims 32, 51 and 56. However, Robbins will be discussed to the degree that it may be applied to any of the new claims.

Robbins discloses a process for automated real estate valuation wherein a database for enhanced records of properties in a particular territory is used to determine the value of a "subject property". See, Abstract. Without needing to debate whether the Search Report is or is not correct in that "*Robbins teaches collection of one or more storage media containing one or more databases that, when accessed by a computer can enable the user to perform a number of property-related queries*", the Search Report does not assert or suggest that Robbins has an input device configured to receive one or more user-provided search parameters relating to residential properties, and a query device configured to generate at least a first report for the user based on the user-provided search parameters, as recited in independent claim 1 and similarly recited in independent claims 51 and 56.

To the contrary, while Robbins discloses that databases can be used to derive AVM values (see, e.g., Abstract, par [0082] and par [0109]), nowhere does Robbins disclose or suggest performing any form of search or generating a search report having an AVM value based for any conforming property. Further, as the primary purpose of Robbins is apparently to derive an appraisal values by an appraisal professional (see, e.g., par [0076]) for a specifically identified property for lending reasons (see, e.g., par [0076]), there can be no rationale to impose a search engine into the methods and systems of Robbins.

United States Publication No. 2003/0191723 to Foretich ("Foretich") discloses a system and method for valuing real estate. See, Abstract. A real-estate professional or loan officer (see, par [0028]) using the Foretich device could access a variety of databases (see, par [0026]-[0028]) and a number of Application Service Providers (ASPs) (see, par [0031]) to perform an AVM process on a specific property. However, Foretich does not teach or suggest a computer-based apparatus that has an input device configured to receive one or more user-provided search parameters relating to residential properties, and a query device configured to generate at least a first report for the user based on the user-provided search parameters, as recited in independent claim 1 and similarly recited in independent claims 51 and 56.

To the contrary, as with Robbins, the Foretich device is configured to operate on a pre-identified subject property to produce an AVM. See, par [0035]. There is no query device, and the identity of these pre-identified properties are made known to a computer by use of a street address, a tax ID number, a tax record or some other information specifically identifying a particular property.

While the Search Report asserts that "*Foretich teaches performing property-related searches and notifications based on search parameters provided by a user*", (citing FIG. 1) nowhere does FIG. 1 show any search engine or otherwise suggest that it performs property-related searches and notifications based on search parameters provided by a user.

Quite to the contrary, FIG. 1 (and its supporting text of pars [0025]-[0031]) does not describe anything more than a generic networking diagram interconnecting various computers and terminals.

DISCUSSION

As discussed above, the Search Report does not show where either of Robbins or Foretich discloses, teaches or even a remote suggests performing some form of search to derive a number of conforming properties with related AVM values or differential valuations (which are defined in the specification as being derived from AVM values).

Accordingly, none of the applied art of record discloses or suggests a computer-based apparatus that has an input device configured to receive one or more user-provided search parameters relating to residential properties, and a query device configured to generate at least a first report for the user based on the user-provided search parameters, as recited in independent claim 1 and similarly recited in independent claims 51 and 56.

In the same line of thought, none of the applied art of record discloses or suggests a computer-based apparatus that has a query device configured to generate at least a first report for the user based on [one or more] user-provided search parameters, wherein the first report contains at least one of a respective AVM value and a differential valuation for each of a plurality of residential properties that conforms to the user-provided search parameters, as recited in independent claim 1 and similarly recited in independent claims 51 and 56.

The Search Report has not established any anticipation under 35 U.S.C. §102(b).

Further, the Search Report has not established a *prima facie* case of obviousness. To establish a *prima facie* case of obviousness, the prior art references must teach or suggest all the claim limitations, there must be some motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify or combine the reference teachings and there must be a reasonable likelihood of success to combine the references. See MPEP §2143, for example.

As discussed above, the Search Report has not shown that the applied art of record teaches or suggests all the known claim limitations.

Further, the Search Report has not provided an appropriate motivation in the references themselves, or demonstrated an appropriate motivation from the knowledge generally available to one of ordinary skill in the art, to modify or combine the reference teachings.

The inventors of the disclosed methods and systems have created an entirely new approach to empower buyers of real estate property. **Against industry trends and traditions, the inventors have invested greatly in their own AVM technology, and applied it in unconventional and novel ways. Accordingly, the inventors have a unique standing in the relevant industry with the ability to perform massive numbers of AVM valuations at negligible costs.** As a result, the inventors have created novel applications that can take advantage of the strengths of AVM technology while limiting their known liabilities. For example, by employing AVM technology not against various specific properties, but against practically every property in a given geographical region, entirely new approaches for investing can be formulated with negligible costs and before any substantial money is ever invested by a given consumer.

Applicants also wish to point out that a product based on the Inventors' claimed technology has been recognized for its "Innovative Technology" by the Inventors' industry peers. See, Attached Inman News announcement. Such peer recognition is evidence of the utility and novelty of the claimed methods and systems, and should should weigh in as a secondary consideration of nonobviousness. See, e.g., Graham v. John Deere Co., 383 U.S. at 17-18.

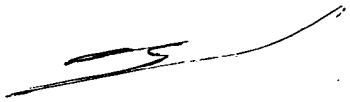
Accordingly, Applicants assert that the independent claims are directed to patentable subject matter. The dependent claims are directed to patentable subject matter by virtue of their

dependency as well as for the additional features they recite. Accordingly, Applicants respectfully request that this Petition be granted and the examination of this Application be expedited.

Please charge the amount of $130.00 to Deposit Account 50-0238. Any deficiency or overpayment should be charged or credited to Deposit Account No. 50-0238.

Respectfully submitted,

Volentine Francos & Whitt, P.L.L.C.



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April 25, 2006

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Attachment (1): Copy of Inman News (12/21/2005)

Inman News

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- ISoldMyHouse.com
- One Percent Realty
- Prudential Real Estate Affiliates

Innovative Technology

- Center for REALTOR Technology (National Assn. of Realtors)
- CleanOffer
- CreditXpert
- DocuSign
- FlashMaps
- Google Earth
- Homekeys
- HousingMaps.com
- LeadRouter – Cendant
- MapQuest Business Solutions
- Real Data Center
- RealBird
- Ellie Mae

Most Innovative Real Estate Brokers/Franchises/Realtor

- Baird & Warner
- Century 21 Sussex & Reilly

- Prudential California Realty
- Real Living
- The "RE/MAX Internet Team" by Damon Pace
- Smarter Agent

Most Innovative Web Service

- HomeGain
- NexTag
- Real Data Center
- RealEstate.com
- RealtyTrac
- Redfin
- StartPoint Realty Network
- WhereToLive.com
- Zona Hipotecaria (IndyMac)

Most Innovative Mortgage Companies

- Bank of America
- Countrywide Home Loans
- DiTech.com
- First Metropolitan Mortgage
- Metrocities Mortgage
- Wachovia

Most Innovative Media Site

- Brownstoner.com
- Curbed.com
- New York Times Digital
- October Research Corporation
- PropertyGrunt.com
- RealEstateJournal.com
- REALTOR Magazine Online
- RIS Media

Most Innovative Rental or New Home Online Service

- ApartmentRatings.com
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